THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8374 of 2007

Dated: 25-04-2007

Between:

Gadde Gopala Krishna Murthy and others.

.....
PETITIONERS

AND

The Government of Andhra Pradesh,
Rep.by its Principal Secretary, Revenue, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8374 of 2007

ORDER:

The petitioners, who are seven in number, filed instant writ petition seeking a writ of Mandamus declaring that the lands in survey Nos.127, 261, 264, 265, 133/2, 133/3 and 262 situated at Chillakallu Village, Chillakallu Panchayat, Jaggayyapet Mandal, Krishna District, are not assigned lands within of the meaning expressed in the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (For brevity, the Act) and further declaring that the action of the respondents in trying to dispossess them (petitioners) from possession is illegal and arbitrary.

The short fact of the matter is that the petitioners purchased the subject lands in 2002. Alleging that the revenue officials threatened to dispossess them without initiating action under the Act and Rules made thereunder, the petitioners filed W.P.No.25310 of 2004. This Court disposed of said writ petition on 23.11.2006 observing that the petitioners may submit explanations to the show-cause notices dated 06.01.2005 issued to them and the Mandal Revenue Officer (MRO) was directed to consider the explanations and pass appropriate orders. Subsequently the petitioners allegedly submitted explanations to MRO opposing the
show-cause notices issued on 06.01.2005. According to the petitioners the enquiry is still pending. They, however, allege that respondents
2 and 3 started interfering with their peaceful possession and enjoyment of the lands and also tried to put up a board that the lands belong to the Government. Apprehending that they might be dispossessed, instant writ petition is filed.

The learned senior counsel for the petitioners submits that when the enquiry is pending before MRO (third respondent), respondents 2 and 3 cannot highhandedly dispossess the petitioners. On instructions, he submits that MRO has put up a board near the lands claiming them to be Government lands.

After getting instructions, the learned Assistant Government Pleader for Revenue (Assignment) opposes the writ petition. He would urge that against a show-cause notice, writ petition would not lie. Secondly he submits that MRO has passed orders in Rc.No.398/2004 dated 27.01.2007 ordering resumption of the lands under Section 4 of the Act. He has placed before this Court xerox copy of facsimile of said order, which is made part of the record. He also submits that the petitioners did not submit any explanation as observed by this Court in

the earlier round of litigation and possession was taken.

The learned senior counsel disputes the contention of other side that possession was taken. He submits that immediately after disposal of W.P.No.25310 of 2004, the petitioners submitted explanations i.e., in December, 2006, and without considering the same, the order dated 27.01.2007 is allegedly passed. Secondly he would submit that the petitioners are very much in possession of the lands and they are being dispossessed.

There is a dispute whether the petitioners submitted explanations after disposal of W.P.No.25310 of 2004, which was filed by them. There is also a dispute whether the petitioners are in possession of the lands. The submission of the learned Assistant Government Pleader that possession was resumed is vehemently disputed and denied by the learned senior counsel for the petitioners. In a situation like this, when writ petition filed assailing the show-cause notices to which the petitioners allegedly submitted explanations is opposed by producing a copy of the order passed by the authority, who issued the show-cause notices, it is only proper to allow the petitioners to file an appeal under Section 4-A of the Act before the Revenue Divisional Officer (RDO) concerned. To enable the petitioners to obtain appropriate orders, this Court is of the considered opinion that *status quo* should be maintained for a period of eight weeks from today. The petitioners are given ten days time from the date of receipt of a copy of this order to file the appeal before RDO, Vijayawada. As and when such appeal is filed, the same shall be entertained and disposed of within a period of eight weeks thereafter.

The writ petition, with the above observations, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

25th April, 2007

Note:

Issue CC by tomorrow.

B/o

ghn